

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

**Proposing rule making related to falconry
and providing an opportunity for public comment**

The Natural Resource Commission hereby proposes to amend Chapter 101, “Falconry Regulations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6) and 481A.48(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 481A.48(3).

Purpose and Summary

Chapter 101 regulates the capture and use while hunting (as a method of take) of federally protected raptors in Iowa. Raptors are migratory and therefore subject to the international Migratory Bird Treaty Act (MBTA), which is overseen by the U.S. Fish and Wildlife Service (USFWS). The proposed amendments add five new Peregrine falconry permits for eligible falconers to obtain via a lottery and also establish special releasing and reporting requirements for any banded (e.g., tagged) raptors of any kind.

These Peregrine falconry permits provide a new recreational opportunity for Iowans. Peregrine falcons were listed as endangered on the federal endangered species list in 1970 when the species’ population plummeted due to DDT use in the 1940s, 1950s, and 1960s. The species recovered in subsequent decades and was removed from the list in 1999. The USFWS has determined that the species, particularly the northern management population, is now sufficiently stable to support a limited take and has authorized the nation’s four flyway zones to issue permits to their member states. Iowa is part of the Mississippi Flyway, whose oversight council has decided to allocate its 48 total available permits roughly equally to all ten of its member states (hence Iowa’s 5 permits). If the Commission does not amend Chapter 101 to include these permits, these 5 permits will be distributed to other states.

The proposed amendments limit eligibility for the Peregrine permit lottery to either Iowa master falconers or Iowa general falconers with at least five consecutive years of field experience. This qualification is based on the anticipated (large) interest in these permits and the Peregrine’s fairly recent removal from the endangered species list. All other requirements will mimic those for other allowable raptors in Iowa.

The permit will authorize the take of wild, unbanded “passage” (i.e., migratory) Peregrines under one year of age between September 20 and October 20, as authorized by the governing federal regulations (see 82 Fed. Reg. 42700-42701 (Sept. 11, 2017)). Passage Peregrines are those birds that originate from a nesting range north of Iowa extending all the way to the Arctic; USFWS, in consultation with the Canadian Wildlife Service, has determined that this population has the largest and most stable numbers.

Finally, the proposed amendments require the immediate release and reporting to the Department of Natural Resources (Department) within 48 hours of any captured raptor that is banded, whether a Peregrine or some other eligible species open to take. Banded raptors have been tagged for monitoring and should not be removed from the wild so that they can continue to serve an important part in ongoing research.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the impact statement is available upon request from the Department.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the impact statement is available upon request from the Department.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 6, 2018. Comments should be directed to:

Karen Kinkead
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8202
Email: karen.kinkead@dnr.iowa.gov
Phone: 712.330.8461

Persons may also convey their comments orally by visiting the fourth floor of the Wallace State Office Building during regular business hours.

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor to check in at the Department's reception desk to sign in and be directed to the appropriate hearing location:

March 6, 2018	Conference Room 3 E & W
12 noon	Wallace State Office Building
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 571—101.1(481A), introductory paragraph, as follows:

571—101.1(481A) Falconry regulations. No person may take, transport, or possess any raptor without having first obtained a valid state/federal falconer's permit. Falconry permit holders shall comply with the department's rules and with the current Code of Federal Regulations pertaining to falconry. Only the following raptors may be taken from the wild: American kestrel, Cooper's hawk, Ferruginous hawk, Goshawk, Great horned owl, Gyrfalcon, Harris' hawk, Merlin, Peregrine falcon, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk. Raptors taken from the wild shall not be sold, bartered or traded. All wild raptors legally trapped or taken by a resident or nonresident falconer must be marked with an Iowa marker band provided by the department.

ITEM 2. Amend rule 571—101.3(481A), introductory paragraph, as follows:

571—101.3(481A) Taking and possession provision. The taking of ~~raptors~~ American kestrel, Cooper's hawk, Ferruginous hawk, Goshawk, Great horned owl, Gyrfalcon, Harris' hawk, Merlin, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk from the wild by resident falconers shall be limited to the following conditions:

ITEM 3. Renumber subrule **101.3(8)** as **101.3(9)**.

ITEM 4. Adopt the following new subrule 101.3(8):

101.3(8) Previously banded birds. Any raptor captured with a federal leg band or any research band already attached shall be immediately released at the site of capture, and the band number and location of trapping site shall be reported to the department within 48 hours.

ITEM 5. Renumber rules **571—101.4(481A)** to **571—101.6(481A)** as **571—101.5(481A)** to **571—101.7(481A)**.

ITEM 6. Adopt the following new rule 571—101.4(481A):

571—101.4(481A) Wild Peregrine falcons. A wild Peregrine falcon permit allows for the capture, possession and use of a wild Peregrine falcon in hunting, subject to 571—Chapter 102. In addition to the following provisions, the holder of a wild Peregrine falcon permit shall comply with 571—101.1(481A), 571—101.2(481A), and 571—101.5(481A) through 571—101.7(481A) as well as other applicable law.

101.4(1) The taking of Peregrine falcons from the wild shall be conducted only by resident master falconers or resident general falconers with at least five years' field experience and subject to the following conditions:

a. Nestling birds shall not be taken. Young birds not yet capable of flight shall not be taken. Removal of eggs from nests is prohibited.

b. Only wild Peregrine falcons less than one year old shall be taken, and only between September 20 and October 20.

c. No permittee shall employ any method of take that is injurious to the bird.

d. No more than one wild Peregrine falcon per person may be possessed at any given time.

101.4(2) Recapture. Banded Peregrine falcons that are lost to the wild through accident may be retrapped at any time provided that the department has been advised of the loss and is notified of the attempt to recapture. If the banded raptor is recaptured, the department shall be notified of the recovery within 48 hours.

101.4(3) Previously banded Peregrines. Any wild Peregrine falcon captured with a federal leg band or any research band already attached shall be immediately released at the site of capture, and the band number and location of trapping site shall be reported to the department within 48 hours.

101.4(4) Lottery. Applications for wild Peregrine falcon permits shall be received by the department no later than July 31 of each year. Permit drawing from the names of qualifying applicants will be held at the August commission meeting.